UNITED
NATIONS

ST

Secretariat

ST/AI/399
14 December 1994

ADMINISTRATIVE INSTRUCTION

To: Members of the staff

From: The Assistant Secretary-General for Human Resources Management

Subject: FINANCIAL AND OTHER OBLIGATIONS OF STAFF MEMBERS*

1. The purpose of the present instruction is to remind staff members of their obligation under staff regulations 1.1, 1.4 and 1.8 to regulate their conduct at all times in a manner befitting their status as international civil servants, and also to set out, in broad terms, the Organization's policies for responding to cases of personal indebtedness.

2. Staff members are expected, as a matter of proper conduct, to meet their legal and financial obligations without involving the United Nations. The standards of conduct of international civil servants (COORD/CIVIL SERVICE/5) require that staff members bear in mind that their conduct, whether connected or unconnected with official duties, must be such that it will not infringe upon any demonstrable interests of the Organization, bring it or their colleagues into discredit or offend the community in which they live. The honouring of private financial obligations and compliance with national laws are among the requirements that derive from this general principle, which is explicitly stated in staff regulation 1.8.

3. Staff members who are experiencing financial difficulties should consult the Staff Counsellor or a personnel officer about possible help from the Staff Emergency Fund or its equivalent outside Headquarters.

* Personnel Manual index No. 1040.

94-49986 (E) 161294 19/12/94

/...

The Organization's obligations in cases of private indebtedness

4. The privileges and immunities attached to the United Nations are granted to officials in the interests of the Organization and not for the personal benefit of the individuals themselves. As such, these privileges and immunities do not provide the staff members who enjoy them, nor the staff members who do not, with an excuse for the non-performance of their private obligations. Although in principle the United Nations does not intrude upon the private life of a staff member, when it is brought to the attention of the United Nations that a staff member has failed to satisfy his/her legal obligations and/or resolve all matters relating thereto, the Organization may, when it deems appropriate, take action against the staff member. Pursuant to section 20 of the Convention on the Privileges and Immunities of the United Nations, the Secretary-General has the right and the duty to waive the immunity of any official in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the United Nations. Furthermore, pursuant to section 21 of the Convention, the United Nations has an obligation to cooperate at all times with the appropriate authorities of Member States to facilitate the proper administration of justice and to prevent the occurrence of any abuse in connection with the privileges and immunities of the Organization.

Personal debts to outside claimants

5. The United Nations, including its property and assets, is immune from legal process and from judgements of execution. United Nations salaries, therefore, are not subject to garnishment or attachment. However, staff members of the Organization have no personal immunity in respect of private acts and obligations, and the Organization's immunity is not intended to derogate from the rights of legitimate claimants. Claimants who communicate to the United Nations a legal obligation that has not been met are informed of the Organization's immunity and also of the policy of requiring staff members to meet their financial obligations. Staff members are provided with a copy of this correspondence relating to the legal obligation or judgement, together with a copy of the claim, levy or order, and are requested, in writing, to initiate steps to settle the matter promptly and to advise their personnel officer of the action that has been taken.

6. If, within three months from the date of receipt by the staff member of the personnel officer's request, the Organization is not satisfied that appropriate and effective action has been taken by the staff member, all correspondence will be placed in the official status file and disciplinary action may be initiated in accordance with chapter 10 of the Staff Rules.

Child and spouse support payments

7. Private family matters are not in themselves the business of the Organization. However, staff members are expected, as a matter of proper conduct, to support their dependants and to comply fully with legally established maintenance obligations. Failure to honour legally binding and other family support obligations violates the standards of conduct required of international civil servants and is inconsistent with the obligation of

integrity. Staff members who are in receipt of United Nations allowances and benefits intended for the support of dependants, including dependency allowance and salary at the dependency rate, education grant and insurance subsidy, may be called upon at any time to provide evidence that these sums are being used for their declared purpose. Failure to honour support obligations, while at the same time receiving allowances and benefits premised on dependency, may constitute serious misconduct.

8. In cases where non-support has been judicially established, and the staff member either disclaims the obligation or indicates that he/she intends to appeal the judgement, the Secretary-General may decide to authorize, under the terms of staff rule 103.18 (b) (iii), deduction from the staff member's emoluments of an amount equivalent to the dependency-related allowances and direct payment of this amount to the dependant. Where there is an apparent conflict between jurisdictions, the Office of Legal Affairs will advise which court order will have precedence.

9. The Organization normally seeks the consent of a staff member before releasing information of a personal nature to persons or organizations outside the United Nations. In spouse and child support cases, however, the Organization will cooperate with the appropriate authorities, when and in the manner it deems appropriate, even without the consent of the staff member, in order to facilitate the proper legal or judicial resolution of the family's claims. The staff member will be notified that the information has been provided and the nature of the information.

10. Abuse of the privileges and immunities conferred upon the United Nations in order to avoid service of process, if established, may result in disciplinary action.

Deductions from final payments

11. Although the salaries of serving staff members are not subject to attachment under the Convention on the Privileges and Immunities of the United Nations, final payments on separation are not immune. Accordingly, deductions from final entitlements may be authorized to pay the staff member's legally established third party indebtedness, including to dependent, former or estranged spouses and entitled children in regard to repatriation travel and grant payments.

12. Where deductions from terminal payments are authorized under the terms of staff rule 103.18 (b) (iii), the order of precedence for payment, after deductions for indebtedness to the United Nations and the United Nations Federal Credit Union (or similar institution at other duty stations), will be: first, unpaid judicially established family obligations, including repatriation travel and grant payments; and second, all other legally established indebtedness to third parties. In the event (a) the staff member does not consent to such payments in writing or (b) any dispute or other conflicting claims are made in connection with this provision, including, but not limited to, issues of priority, then the United Nations shall have the right, in its discretion, to withhold payments commensurate with the amount in question until such dispute or conflicting claims have been resolved by written agreement between the

interested parties or the issuance of a final judgement by a court of competent jurisdiction.

Mission service

13. Staff members detailed to special missions should make suitable arrangements before departure for payment of ongoing obligations at the duty station. Absence on mission furnishes no excuse for non-payment of indebtedness. Because of the limited duration of special mission assignments and the Organization's responsibilities towards the host country, staff members are expected to settle all bills incurred at the mission area before departure. Evasion of responsibilities in this respect may result in ineligibility for future mission assignments, as well as in the application of any of the measures set out above, including those referred to in paragraph 6.